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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,819	06/10/2004	Holger Warth	Mo-7019N/LeA 33,428-N	3370

157 7590 06/24/2005

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EXAMINER

MULLIS, JEFFREY C

ART UNIT	PAPER NUMBER
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1711

DATE MAILED: 06/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/776,819	Applicant(s) WARTH ET AL.	
	Examiner Jeffrey C. Mullis	Art Unit 1711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2-11-04</u> . | 6) <input type="checkbox"/> Other: _____ |

HC

Applicants claim for domestic priority in the first line of the specification lacks the filing date of 10/089,134 and fails to recite that '134 is a national stage application of PCT/EP00/09015, filed 9-15-00 and applicants have therefore not made a proper claim for domestic priority.

Claims 15-26 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The ranges recited in independent claim 15 as well as the lower limit of particle size in claim 18 were not disclosed in the specification as filed and are therefore new matter.

Claims 16-18 and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "particle size where used without qualification as to the type of particle size, ie weight or number average particle size is unclear since the various expressions of particle size differ as particle sizes exist as a distribution.

Claim 24 is unclear since it does not state what the phrase "halogen substituted" modifies.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15 and 19-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Katayama et al. (US 6,316,579).

Katayama discloses a composition "diene-series block copolymer" "F" which is modified by grafting (column 8, lines 42-45) which is present at a level of 0.1-30 parts per 100 parts of polycarbonate (column 3, lines 10-18) and in which is present a "second thermoplastic resin (3)" at a level of polycarbonate/resin of 99/1 to 1/99 (column 3, lines 19-31) along with 1-40 parts of flame retardant (column 3, lines 31-36). The second thermoplastic includes PEN at column 9, lines 21-27, while the flame retardant may include applicants phosphates at the paragraph bridging columns 14 and 15. Vinyl resins may be included at column 12, lines 22-53.

No Examples are present in the reference having all of applicants' materials in applicants' amounts in combination, although such lies within the broad ambit of the reference. However, choice of such would have been obvious to a practitioner having an ordinary skill in the art at the time of the invention in the expectation of adequate results, absent any showing of surprising or unexpected results.

Claims 15 and 19-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noriyuki et al., JP 10-245481.

Note the abstract of the patent for a composition having all of applicants' components and in ranges embracing applicants amounts as well as the examples in which are used applicants materials in amounts which are similar to applicants.

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No Examples are present in the reference having all of applicants' materials in applicants' amounts in combination, although such lies within the broad ambit of the reference. However, choice of such would have been obvious to a practitioner having an ordinary skill in the art at the time of the invention in the expectation of adequate results, absent any showing of surprising or unexpected results.

Any inquiry concerning this communication should be directed to Jeffrey C. Mullis at telephone number 571 272 1075.

Jeffrey C. Mullis
J Mullis
Art Unit 1711

JCM

5-26-05

Jeffrey Mullis
Primary Examiner
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